

CAP. XLVI

An Act to amend article 2005 of the Civil Code

[Assented to 15th January, 1898]

HER MAJESTY, by and with the advice and consent of the Legislature of Quebec, enacts as follows :

1. Article 2005 of the Civil Code, as contained in article 5828 of the Revised Statutes, is replaced by the following : C. C. 2005. replaced.

“ **2005.** The privilege of the lessor extends to all rent that is due or to become due under a lease in authentic form. Privilege of lessor, if lease in authentic form.

But in the case of the liquidation of property abandoned by an insolvent trader who has made an abandonment in favor of his creditors, the lessor's privilege is restricted to twelve months rent due and the rent to become due during the current year if there remain more than four months to complete the year ; if there remain less than four months to complete the year, to the twelve month's rent due and to the rent of the current year and the whole of the following year. Proviso.

If the lease be not in authentic form, the privilege can only be claimed for three overdue instalments and for the remainder of the current year. If lease not in authentic form.

CAP. XLVII

An Act to amend the Code of Civil Procedure

[Assented to 15th January, 1898]

HER MAJESTY, by and with the advice and consent of the Legislature of Quebec, enacts as follows :

1. Article 295 of the Code of Civil Procedure is replaced by the following : C. C. P. 295. replaced.

“ **295.** No case can be inscribed on the roll unless a copy of all pleadings necessary to join the issue, is filed in the office of the court for the use of the trial judge. When case may be inscribed.

The prothonotary has the right, before the witnesses are heard, to require from each party a deposit of ten dollars to cover stenographer's fees, and further, if necessary, to require during the trial additional deposits. Deposit for evidence.

C. C. P. 350, amended. **2.** Article 350 of the said Code is amended by adding thereto the following clause :

Notes are to be evidence. "The notes of evidence, taken by the judge or under his direction, are afterwards signed by the judge or the prothonotary, and they constitute and shall be considered as the evidence of the witness."

C. C. P. 430, amended. **3.** Article 430 of the said Code is amended by adding thereto the following clause :

Who are jurors in civil cases. "If the court is held in any place other than the cities of Quebec, Montreal, Three Rivers, Sherbrooke, or St. Hyacinthe or the town of St. Johns, the names of all persons appearing on the list of grand jurors must be entered by the prothonotary upon the list of persons qualified to serve as jurors in civil cases."

Art. added after C. C. P. 719. **4.** The following article is inserted in the said Code after article 719 :

Other notices to be given by sheriff. "**719a.** When the seizure has been made in a locality other than that mentioned in paragraph 1 of article 717, in addition to the notices and advertizements which he is bound to give, when no opposition has been made to the seizure or sale, or if an opposition, having been made, has been set aside, the sheriff shall cause to be published, in at least one number of a French newspaper, and in one number of an English newspaper, published nearest to the place in which the immoveable under seizure is situated, a notice briefly setting forth the details of such sale.

Want of, does not invalidate proceedings, &c. The omission to give such notice does not invalidate the proceedings, but the officer in default is responsible for all damages which may result therefrom.

Costs thereof. When the seizure is annulled and the seizing party is condemned to pay the costs thereof, the expenses of the notice are borne by him."

French version of C.C.P. amended. **5.** The French version of the said Code is amended :

(a) By replacing the word : "*débiteur*" in the first line of paragraph 2 of article 853, by the word : "*commerçant*;"

(b) By inserting before the word : "*justifié*," in the fourth line of article 1219, the word : "*sa*."

C. C. P., 878, amended. **6.** Article 878 of the said Code is amended by inserting, in the first line, after the word "moveable," the words "and immoveable".

C. C. P., 879, replaced. **7.** Article 879 of the said Code is replaced by the following :

Sale of immoveables. "**879.** Upon the application of the curator authorized by the inspectors or upon the application of an hypothecary cred-

itor, after notice to the debtor, the judge may authorize the curator to sell the immoveables of the latter in such manner and after such notices as the judge may please to order ; he may also authorize or command the curator to issue his warrant to the sheriff competent to act requiring the latter to seize and sell such immoveables.

The sheriff executes such warrant without making any service upon the debtor, but by otherwise observing the same rules as in the case of an execution against immoveables ; and all subsequent proceedings are had in the Superior Court,

The moneys realized from the sale made by the sheriff remain in his hands to be paid by him to the privileged and hypothecary creditors in accordance with the report of distribution which shall be made by the prothonotary of the Superior Court in the usual way, and the surplus shall be remitted to the curator upon an order of the judge for its distribution among the chirographory creditors by means of a dividend sheet prepared in accordance with the following article."

8. Article 880 of the said Code is amended by striking out the words : " or by the sheriff " in the first and second lines. C. C. P., 880, amended.

9. Article 1398 of the said Code is replaced by the following : C. C. P., 1398, replaced.

1398. The inventory may, whenever required, be judicially closed at the *chef-lieu* of the district, by the judge of the Superior Court, the prothonotary or deputy-prothonotary, or at any place in the district, outside the *chef-lieu*, where the Circuit Court is appointed to be held, by the judge or the clerk or the deputy-clerk of such Circuit Court, upon the submission of the original inventory or an authentic copy thereof, with a sworn declaration that such inventory is faithful and correct. Judicial closing of inventories.

Every prothonotary, and every clerk of the Circuit Court held at a place not being the *chef-lieu* of a district, shall keep an indexed register, in which he shall enter and make, and certify as true, a copy of every such sworn declaration and closure of inventory made in his district or circuit. Registers for entering same.

10. This act shall come into force on the day of its sanction. Coming into force.